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DAVID N. ERIKSEN

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DAVID N. ERIKSEN,)	CIVIL NO. C-07-05005-JCS
)	
Plaintiff,)	JOINT CASE MANAGEMENT
)	STATEMENT
v.)	
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	
)	

1 Counsel for the parties have conferred and make the following joint case
2 management statement:

3 1. Jurisdiction and Service: This appears to be an admiralty and maritime claim
4 within the meaning of Fed.R.Civ.P. Rule 9(h), and the United States is a sovereign which
5 has consented to be sued, if at all, solely pursuant to the terms and conditions of the
6 Clarification Act, 50 App. U.S.C.A. §1291, incorporating the consistent provisions of the
7 Suits in Admiralty Act, 46 U.S.C. §§ 30901-30918.

8 2. Facts:

9 a. Chronology: This is a seaman's injury action by David N. Eriksen for
10 damages he allegedly sustained while lowering equipment down a stairway on board the
11 M/V ADMIRAL W. M. CALLAGHAN ("the Vessel"), a public vessel of the United
12 States, while it was underway. Following the incident plaintiff received medical care,
13 was discharged from the Vessel and allegedly received continuing medical care and
14 treatment until he was determined to be fit for duty on September 1, 2007.

15 b. Principal factual issues in dispute:

- 16 (1) Whether the United States was negligent in any regard.
17 (2) Whether the Vessel was unseaworthy in any regard.
18 (3) Whether any unseaworthiness of the Vessel or negligence of the
19 United States caused or contributed to the plaintiff's injury.
20 (4) Whether the plaintiff caused or contributed to the accident
21 and/or his own injuries.
22 (5) In the event the defendant is liable to the plaintiff, the percentage
23 reduction in his recovery, if any, due to his own fault.
24 (6) Whether the plaintiff failed to carry out the responsibilities
25 assigned to him as a primary duty.
26 (7) Whether the defendant was engaged in a discretionary activity
27 for which its sovereign immunity is not waived.

(8) The type and extent of plaintiff's provable injuries, if any.

(9) The type and extent of plaintiff's damages, if any.

(10) Whether plaintiff was paid all amounts due him.

(11) Whether plaintiff failed to mitigate his damages, if any.

3. Legal Issues:

a. Whether defendant exercised due care;

b. Whether any negligence by defendant or unseaworthiness of CAPE JACOB was a legal cause of plaintiff's alleged injuries and or damage;

c. Whether plaintiff breached a duty of care and was solely or, comparatively negligent, and if so, in what proportion;

d. Whether responsibilities assigned to the plaintiff as a primary duty governed the activities at the time of the alleged accident.

e. Whether plaintiff failed to mitigate his damages;

f. Whether the defendant United States was engaged in a discretionary activity for which its sovereign immunity is not waived;

g. Whether the court has subject matter jurisdiction;

h. Whether attorneys fees and/or costs are awardable.

4. Motions: There are no pending motions. The United States does not anticipate any at this time.

5. Amendment of Pleadings: The parties do not anticipate amendments at this time.

6. Evidence Preservation: The United States has attempted to ensure that relevant documents are preserved.

7. Disclosures: The parties served initial disclosures and documents on counsel on January 04, 2008.

8. Discovery: No discovery has been taken to date by either party in this matter. The scope of discovery is expected to include relevant medical records,

documents/logs/reports from the Vessel and ship manager relevant to its status/condition at the time of the alleged incident, and depositions of plaintiff, percipient, medical and expert witnesses.

9. Class Actions: Not applicable.

10. Related Cases: None.

11. Relief: As prayed for in pleadings.

12. Settlement and ADR: Counsel for the parties have conferred and request an Early Settlement Conference with a Magistrate Judge. An ADR telephone conference is scheduled for February 9, 2008.

13. Consent to Magistrate Judge for All Purposes: Counsel for the parties have agreed to have a Magistrate Judge conduct all further proceedings in this matter, including trial and entry of judgment.

14. Other References: This case does not appear to be suitable for reference to binding arbitration, a special master, or the Judicial Panel on Multidistrict Litigation.

15. Narrowing of Issues: Defendant United States will continue to endeavor to reach agreement with plaintiff in order to present some part of the case on an agreed statement of facts, and will work with plaintiff to stipulate to the authenticity and admissibility of some or all of the exhibits at an appropriate time.

16. Expedited Schedule: The parties agree that this does not appear to be a case that can be handled on an expedited basis with streamlined procedures.

17. Scheduling: To be determined at Case Management Conference.

18. Trial: This case is to be tried to the court.

19. Disclosure of Non-Party Interested Entities or Persons: None.

Dated: 1/4/08

/s Ronald H. Klein
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Dated: 1/4/08

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